Downloaded from Blogs on 08.11.2026 19:49

By PwC Deutschland | 07 August 2013

Return of employee shares at fixed price leads to employment income

The Supreme Tax Court has held that the return of employee shares at a guaranteed price leads to employment income in the year of return in the amount by which the price exceeds the market value.

Downloaded from Blogs on 08.11.2026 19:49

A director purchased shares in his (unquoted) company under an employee participation scheme at a price of €11.50. The purchase was linked to an option to return the shares at any time within the following two business years for the price paid. The company fell on troubled times and by the end of the two year option period it was apparent that the shares had depreciated in value considerably. The director exercised his option to return and the tax office assessed him to income tax on the excess of the return price of €11.50 and the current value of the shares, agreed later at €6.

The Supreme Tax Court has now confirmed the tax office in its supposition of employment income. The shares were sold to the director as an employee and the repurchase guarantee was similarly only available to employees. That the company bore the fall in value over the two year holding period was an advantage accruing to the director as an employee of the company. Accordingly, the benefit was to be taxed as employment income in the year of accrual, that is, in the year in which the shares were repurchased.

Supreme Tax Court judgment VIII R 19/11 of April 9, 2013, published on August 7

Keywords

employee shares, employment income, guaranteed price